

40.30. FLEXIBLE AND ZERO YARD SETBACKS**40.30.05. Purpose.**

The purpose of flexible and zero yard setbacks is to encourage flexibility in building design and layout, while providing for open space, adequate light, air, and safety. It is also recognized that a reduction in the setback standards may create compatibility problems for surrounding properties. The following provisions allow flexible setbacks in a manner which is appropriate given the unique character of the property involved and the surrounding area. This Section is carried out by the approval criteria listed herein.

40.30.10. Applicability.

Development on a lot of record in Residential, Commercial, Industrial, and Multiple Use zoning districts may request approval of the flexible or zero setback provisions of this section.

40.30.15. Application Types.

There are six (6) Flexible and Zero Yard Setback applications which are as follows: Flexible Setback for Individual Lot With Endorsement; Flexible Setback for Individual Lot Without Endorsement; Flexible Setback for a Proposed Land Division; Flexible Setback for an Annexation; Zero Side or Zero Rear Yard Setback for a Proposed Land Division in Residential Districts; and Zero Side Yard Setback for a Proposed Land Division in the Commercial, Industrial, or Multiple Use Districts.

1. Flexible Setback for Individual Lot With Endorsement.

- A. Threshold. An application for Flexible Setback for an Individual Lot With Endorsement shall be required when the following threshold applies:
 - 1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and can demonstrate abutting property owners of record endorsement of the request.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Flexible Setback for Individual Lot With Endorsement. The decision making authority is the Director.

40.30.15.1.

- C. Approval Criteria. In order to approve a Flexible Setback on Individual Lot With Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot With Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal does not violate any recorded Solar Access requirements.
 5. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot With Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot With Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot With Endorsement application to ensure compliance with the approval criteria.

40.30.15.1.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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2. Flexible Setback for Individual Lot Without Endorsement.

- A. Threshold. An application for Flexible Setback for an Individual Lot Without Endorsement shall be required when the following threshold applies:
1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and cannot demonstrate abutting property owners of record endorsement of the request.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for Individual Lot Without Endorsement. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback on Individual Lot Without Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot Without Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal does not violate any recorded Solar Access Permit requirements.
 4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 5. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.2.C.

6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot Without Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot Without Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot Without Endorsement application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

3. Flexible Setback for a Proposed Residential Land Division.

- A. Threshold. An application for Flexible Setback for a Proposed Residential Land Division shall be required when the following threshold applies:
1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Residential Land Division and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Residential Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is compatible with the surrounding area, which is defined as abutting properties and properties directly across the street from the proposal site. Properties directly across the street from the development shall be those properties perpendicular from any property line of the proposal. Findings for compatibility must be made with regard to topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.3.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

4. Flexible Setback for a Proposed Annexation.

- A. Threshold. An application for Flexible Setback for a Proposed Annexation shall be required when the following threshold applies:
1. The property is located within a residential zoning district which is the subject of a petition for annexation into the City.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Annexation and shall be considered concurrently with any Comprehensive Plan and Zoning Map amendments. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Annexation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Annexation application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with previous applicable land use decisions regarding the subject property rendered by the former jurisdiction.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.30.15.4.

- D. Submission Requirements. An application for a Flexible Setback for a Proposed Annexation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Annexation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Annexation application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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5. Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division.

- A. Threshold. An application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be required when the following threshold applies:
1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division in any residential zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The side or rear yard setback on all adjacent lots which abut the proposed zero side or rear setback are either zero feet (0') or ten feet (10') or more.
 4. The zero side or zero rear yard is not abutting a public right-of-way or any access easement.
 5. No portion of a structure or architectural feature shall project over a property line related to the zero side or rear yard setback unless a permanent easement allowing such projection has been granted.

40.30.15.5.C.

6. A four foot (4') non-exclusive maintenance easement appears on the plat within the adjacent side or rear yard setback of the adjacent lot where it abuts the zero setback.
7. Satisfactory deed restrictions are submitted with the preliminary land division which address maintenance requirements for the zero setback wall.
8. Five foot utility easements are provided along all side and rear property lines except where the zero setback is designated.
9. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

6. Zero Side Yard Setback for a Proposed Non-Residential Land Division.

- A. Threshold. An application for Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be required when the following threshold applies:
1. The property is located within a commercial, industrial, or multiple use zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Zero Side Yard Setback for Proposed Non-Residential Land Division in any Commercial, Industrial, and Multiple Use zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Zero Side Yard Setback for a Proposed Non-Residential Land Division in the Commercial, Industrial, or Multiple Use zoning districts application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Zero Side Yard Setback for a Proposed Non-Residential Land Division application in the Commercial, Industrial, or Multiple Use zoning districts.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The minimum adjacent side yard setback on all adjacent lots which abut the proposed zero setback parcel are either zero feet (0') as well or twenty feet (20') or more.
 4. The zero side yard is not abutting a public right-of-way or any access easement.

40.30.15.6.C.

5. The zero side yard does not abut any residential district.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side Yard Setback for a Proposed Non-Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side Yard Setback for a Proposed Non-Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

